

Application Serial No.: 10/618,312
Art Unit: 3751

Attorney Docket No. 20915.00
Confirmation No. 4754

REMARKS

By the present amendment, Applicants have cancelled Claims 1-20, and added Claims 21 through 27. Claims 21-27 remain pending in the present application. Claim 21 is the sole independent claim.

Applicants appreciate the courtesies extended to their representative during the personal interview held December 23, 2004. The present response summarizes the substance of the interview. At the interview a proposed amendment to the claims was presented. Proposed new Claim 21 set forth a pen for inducing a mental thought. The pen is defined as having a writing portion, a housing, and a means for emanating an aroma. The writing portion is characterized as having a reservoir of ink, and an ink transferring point. The housing receives the writing portion internally, such that the ink transferring point extends externally beyond the housing. The means for emanating an aroma emanates the aroma from the housing, such that a user senses the aroma, and a thought associated with the aroma is generated in the mind of the user. Arguments were advanced that the ink of Spector produced the fragrance, which is different from the proposed claimed embodiment. In addition, the remaining prior art references, cited and applied by the Examiner, did not teach an aroma emanating from the body of a pen for inducing a mental thought in the user. The Examiner indicated that the limitation of the barrel emanating an aroma for inducing a thought in a user is not shown in the applied prior art references.

In the recent Office Action the Examiner rejected Claims 1 and 18 under 35 U.S.C. § 102(b) as being anticipated by Spector. Claims 2-17 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Spector in view of Smith, Stuart, Cote, Umeda (JP '889), and/or the Geddes-School catalogue (Pub.). Claims 1, 3, 4, and 7-20 were rejected under 35 U.S.C. § 103(a) as being

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unpatentable over Yazawa in view of Geddes-School catalogue (Pub.), and Spector. The cancellation of Claims 1-20 by the present amendment serves to render these particular grounds of rejection moot.

Applicants have added new independent Claim 21, and Claim 22-27 dependent therefrom to more particularly define Applicant's unique construction in view of the applied prior art of record. Specifically, newly presented independent Claim 21 recites a pen having a writing portion and a housing. The writing portion has a reservoir of ink, and an ink transferring point. The housing receives the writing portion therein, such that the point is adapted to extend beyond one end of the housing. The housing also includes a means for emanating an aroma, such that the aroma is sensed and a thought associated with the aroma is generated in the mind of the user of the pen. In this manner, the pen is useable in advertising for constantly presenting an aroma that the user will associate with a consumer product, thus encouraging the user to seek out and purchase the product.

Applicants will advance arguments hereinbelow to illustrate the manner in which the presently claimed embodiment of the instant case is patentably distinguishable from the cited and applied prior art. Reconsideration of the present application is respectfully requested.

The applied prior art reference to Spector discloses a novelty writing pen which has the appearance of an odoriferous object. The ink in the pen incorporates an odor-producing component which is compatible with the ink and which, when the pen is put to use, causes the surface written on to exude an odor simulating the characteristic odor of the object. The housing of the pen of Spector does not emanate an aroma, only when the ink is transferred onto a writing surface does the user sense the smell of the object of which the pen is shaped.

The applied prior art reference to Smith discloses a marking device having a barrel, which includes a tip capable of producing a mark. Further, the barrel includes a material containing anti-

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bacterial additives. The marking device of Smith is useable in the medical field for preventing the transfer of bacterial contaminants along the barrel of the marking implement. There is no teaching of an aroma being emanated from the marking device of Smith.

The applied prior art reference to Stuart discloses bingo game marker including upon its surface revealable, concealed symbols or indicia for sweepstakes or lottery plays. The marker has a marker bottle, a sealing cap, and imprinting either directly upon the surface of the bottle or upon labels that are affixed to the bottle. The marker disclosed in Stuart does not emanate an aroma.

The applied prior art reference to Cote discloses a pencil having a solid elongated body surrounding a core of marking material. The elongated body is impregnated with a fragrance. The pencil, according to the disclosure, will always emit some fragrance however, when the pencil is sharpened, a sharply increased amount of fragrance will be emitted. This will encourage the user to frequently sharpen the pencil to obtain the pleasant sensation of the fragrance, which is a detriment because the need to sharpen the pencil promotes a destructive thought activity in constantly seeking the pleasant fragrance, thereby destroying the pencil.

The applied prior art reference to Yazawa discloses an improved grip for a writing instrument that prevents slippage at an actual holding location of the writing instrument. The grip, as disclosed in Yazawa, is incorporated a portion of the housing of the writing instrument, however, neither the grip nor the housing of the writing instrument emanates an aroma.

The applied prior art reference to Geddes-Schools catalogue (pub.) shows a grip member having an axial bore for inserting a writing implement therein. The grip, as shown and described, produces a fruit fragrance for the purpose of "aromatherapy." Likewise, the applied prior art reference to Umeda (Jp '889) discusses an aroma-radiating ring for attachment to a writing

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implement. In each case, the aroma radiated has the purpose of producing relaxation in the mind of the user, rather than inducing a thought leading to the purchase of a consumer product.

Applicants respectfully submit that there is no disclosure found in any of the applied prior art references, alone or in combination, of a housing having a means for emanating an aroma, wherein the aroma induces a mental thought in the user. A purpose of the thought inducement is to associate the aroma to a consumer product and invoke a desire to purchase the product. Applicants instantly claimed embodiments are not anticipated by, or rendered obvious by the applied prior art references to Spector Smith, Stuart, Cote, Umeda (JP '889), and/or the Geddes-School catalogue (Pub.), and Yazawa, alone or in combination, as alleged by the Examiner.

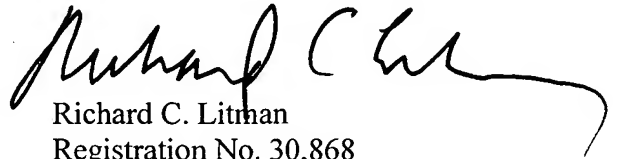
Applicants have rewritten the claims of the instant case to more particularly define Applicants' unique construction in view of the prior art of record. Applicants have also provided arguments that clearly distinguish the structure of the presently claimed embodiments over the applied prior art references. Applicants respectfully submit that for at least these reasons, newly presented Claims 21-27 are allowable over the prior art applied of record. Reconsideration of the claims in light of the foregoing amendments and arguments is respectfully requested.

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For the foregoing reasons, Applicants respectfully submit that the present application is in condition for allowance. If such is not the case, the Examiner is requested to kindly contact the undersigned in an effort to satisfactorily conclude the prosecution of this application.

Respectfully submitted,



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